

Remarks and Arguments

The Claim Amendments

Claims 1-3, 5-22, and 26-28 are pending in this application. Claim 1 has been amended.

The Rejection Under 35 U.S.C. §103(a)

The Examiner rejected Claims 1-22 and 26-28 under 35 U.S.C. §103(a) as being unpatentable over Housley et al. (US 2001/0007910) in view of Spiller et al. (U.S. Patent No. 2,962,361). Applicants respectfully traverse the Examiner's rejection.

On November 13, 2008, a telephone interview was conducted between Applicants' attorney, Applicants Frank Belmonte and David Sikkenga, and Examiner Taylor Victor Oh. The interview was requested by Applicants for the purpose of discussing the rejection. Applicants thank the Examiner for his time and respectfully request allowance of the claims based on that discussion and the amendments, remarks and arguments contained herein. If the Examiner is of the opinion that the interview summary below is inaccurate in any way, he is respectfully requested to contact Applicants' attorney so that any correction may be addressed.

During the telephone interview, Applicants again explained how their inventive process is different from the processes disclosed in Housley et al. and Spiller et al. (as well as the other prior art of record) and why there would be no incentive for one skilled in the art to combine their teachings. In particular, Applicants pointed out to the Examiner that Spiller et al. do not teach introducing at least a portion of the condensed solvent from the first oxidation stage into the second oxidation stage. The Examiner indicated in the Office Action that Spiller et al. is still relevant to the claimed invention and relied on col. 4, lines 60-67 in support thereof. However, as Applicants explained during the telephone interview, this passage in Spiller et al. is referring to acetic acid solvent, not condensed solvent and, more notably, Spiller et al. teach recycling the solvent from a later stage to a preceding stage. Applicants' process does not recycle the condensed solvent, rather the solvent is introduced into a subsequent, not a preceding, stage of the process.

Another distinct difference discussed during the telephone interview between Applicants' invention and the prior art is its surprising ability to obtain high oxygen utilization and desirable product quality. When condensed solvent is diverted from the

first oxidation stage to the second oxidation stage, the optical density at 340nm (OD 340) of the second product mixture containing the dicarboxylic acid product is less than about 1.0. None of the prior art references teach or suggest an oxidation process which maximizes oxygen utilization while maintaining the quality of the dicarboxylic acid products produced at an OD 340 level of less than about 1.0.

As the Examiner indicated at the conclusion of the telephone interview, the differences between these aspects of Applicants' process and the prior art cannot be denied. Accordingly, for all of the reasons discussed above, Applicants respectfully submit that the rejection of the claims has been overcome.

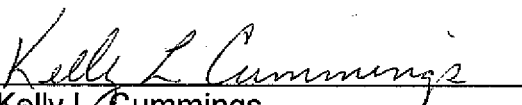
Conclusion

The Applicants respectfully request that the Examiner consider the foregoing arguments and amendments. Applicants submit that Claims 1-3, 5-22 and 26-28 are in condition for allowance and respectfully request allowance of these claims.

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Respectfully submitted,

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